

UNITED STATES OF AMERICA  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY



In The Matter Of:

CHENIERE MARKETING, INC.

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)  
) Docket No. 08 - 17 - LNG  
)

**APPLICATION FOR BLANKET AUTHORIZATION  
TO EXPORT IMPORTED LIQUEFIED NATURAL GAS**

Pursuant to Section 3 of the Natural Gas Act ("NGA"), 15 U.S.C. §717b, and Part 590 of the Department of Energy's ("DOE") regulations, 10 C.F.R. Part 590 (2008), Cheniere Marketing, Inc. ("CMI") hereby requests that DOE, Office of Fossil Energy ("FE"), issue an order granting blanket authorization for CMI to engage in short-term exports of up to 64 billion cubic feet ("Bcf"), on a cumulative basis (which is the equivalent of up to approximately 64 Trillion British Thermal units ("TBtus")) of liquefied natural gas ("LNG") that has been imported into the U.S. from foreign sources, for a two-year period commencing the date of authorization. CMI is seeking authorization to export previously imported LNG volumes from the United States to the United Kingdom, France, Portugal, Spain, Belgium, Turkey, Italy, Brazil, Argentina, Mexico, Japan, Korea, Taiwan, China, India, Dominican Republic, and Chile. CMI also anticipates potentially loading LNG for delivery to the Commonwealth of Puerto Rico, a territory of the United States.<sup>1</sup>

In support of its application, CMI states as follows:

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<sup>1</sup> Since Puerto Rico is a U.S. Territory, it would not appear that export authorization would be required in order for CMI to effectuate the delivery of LNG to Puerto Rico. However, to the extent authorization may be required, CMI herein requests such authorization.

I.  
**DESCRIPTION OF THE APPLICANT**

The exact legal name of CMI is Cheniere Marketing, Inc. CMI is a Delaware corporation with its principal place of business in Houston, Texas. CMI is a wholly-owned subsidiary of Cheniere Energy, Inc. ("Cheniere Energy"), which is also a Delaware corporation with its primary place of business in Houston, Texas. Cheniere Energy is a developer of LNG import terminals and natural gas pipelines on the Gulf Coast.

On January 29, 2007, FE granted CMI blanket authorization to import LNG from various international sources.<sup>2</sup> Under the terms of the blanket authorization the LNG may be imported at any LNG receiving facility in the United States and its territories.

II.  
**COMMUNICATIONS AND CORRESPONDENCE**

All correspondence and communications concerning this application, including all service of pleadings and notices, should be directed to the following persons:<sup>3</sup>

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<sup>2</sup> *Cheniere Marketing, Inc.*, DOE/FE Order No. 2327, issued Jan. 29, 2007. This authorization enables CMI to import and export natural gas from and to Canada and Mexico, and to import LNG from various international sources, up to a combined total of 930 Bcf of natural gas for a two-year period beginning on January 29, 2007.

<sup>3</sup> CMI requests a waiver of Section 590.202(a) to permit all listed persons, including outside counsel, to be included on the official service list in this proceeding.

Pursuant to Section 590.103(a) of the DOE regulations, 10 C.F.R. §590.103(a) (2008), CMI hereby certifies that the persons listed above and the undersigned are the duly authorized representatives of CMI for purposes of this proceeding.

### III. AUTHORIZATION REQUESTED

CMI requests blanket authorization to export previously imported LNG on a short-term or spot market basis up to 64 billion cubic feet (the equivalent of approximately 64 TBtus) cumulatively over a two-year period commencing the date authorization is granted and terminating two years later. CMI anticipates exporting imported LNG to one or more of the following countries on its own behalf or as agent for others: the United Kingdom, France, Portugal, Spain, Belgium, Turkey, Italy, Brazil, Argentina, Mexico, Japan, Korea, Taiwan, China, India, Dominican Republic and Chile.<sup>4</sup> CMI does not seek authorization to export domestically produced natural gas as LNG. Moreover, CMI will not export LNG to those countries with which trade is prohibited by Federal law or policy. There are no other proceedings related to this application currently pending before DOE or any other Federal Agency.

### IV. BACKGROUND

The Federal Energy Regulatory Commission (“FERC”) has authorized CMI’s affiliate, Sabine Pass LNG, L.P. (“Sabine Pass LNG”), to site, construct and operate a new LNG import, storage, and vaporization terminal in Cameron Parish, Louisiana with a total send-out capacity of

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<sup>4</sup> As reflected above, CMI may also seek to effectuate deliveries of LNG to the Commonwealth of Puerto Rico.

4 Bcf/d (“Sabine Pass Project”) to be completed in two phases.<sup>5</sup> Phase I of the Sabine Pass Project, consisting of 2.6 Bcf/day of send-out capacity, is currently being commissioned and will be placed in commercial operation in the near term. Phase II, consisting of 1.4 Bcf/d of capacity, is currently under construction and is anticipated to be placed into service during the second quarter of 2009.

While 2.0 Bcf of the total 2.6 Bcf of Phase I capacity in the Sabine Pass Project has been subscribed under long-term contracts with third parties, service is not scheduled to commence under these contracts until April 2009, at the earliest.<sup>6</sup> The remainder of the Phase I capacity and the entirety of the Phase II capacity has been contracted by CMI. CMI would utilize such capacity in conjunction with the export authorization it is seeking herein. As of yet, CMI has not obtained long term contracts to fill its capacity, but rather, will rely on spot and short-term imports in the interim until long term contracts are secured.

CMI is herein seeking blanket authorization to export LNG that has been imported into the U.S., but for which there may not be adequate demand in U.S. markets, on a short-term or spot market basis. Notably, increasing world-wide demand for LNG in European and Asian markets, and relatively high prices, has resulted in a decrease in deliveries of LNG to the U.S. recently.<sup>7</sup> Blanket export authorization would afford CMI the ability to purchase cargoes of LNG at current LNG market prices with the intent that such LNG subsequently would be

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<sup>5</sup> Sabine Pass LNG, L.P., Order Granting Authority Under Section 3 of the Natural Gas Act and Issuing Certificates, 109 FERC ¶ 61,324 (2004) (Phase I); and Sabine Pass LNG, L.P., Order Granting Authority Under Section 3 of the Natural Gas Act, 115 FERC ¶ 61,330 (2006) (Phase II).

<sup>6</sup> Service under one of the terminal use agreements (“TUAs”) commences in April 2009 while service under the second TUA commences in July 2009.

<sup>7</sup> The decrease in LNG deliveries to U.S. markets over the past year may, in part, be attributed to (i) temporary increases in demand in countries such as Japan, where a significant nuclear power generation facility was taken off-line following a major earthquake near the facility in July 2007, (ii) increases in LNG demand due to fuel substitution as a result of historic rises in oil prices starting in August 2007, and (iii) delays in the completion of new LNG liquefaction facilities. See also, Energy Information Administration, Short-Term Energy Outlook (August 12, 2008).

exported for redelivery to a foreign market at a later date. In the event that U.S. market prices were to rise to a point where domestic sale of the LNG held in storage was economic, the LNG would then be readily available for U.S. consumption. Granting CMI authorization to export imported LNG would provide two important benefits to U.S. gas consumers: First, it would help foster the continuing operation of U.S. energy infrastructure. In this regard, grant of the requested authorization will help ensure that there is an adequate supply of LNG imports to maintain full operation of the Sabine Pass Project during periods when market conditions may not otherwise favor deliveries of LNG to the U.S. Second, to the extent imported LNG may be needed to meet U.S. gas demand, grant of the authorization requested herein would help ensure that such supply is present in the U.S. and available for delivery to U.S. markets. Absent the commercial flexibility that CMI seeks herein (to export imported LNG during periods of low U.S. demand), CMI would be less likely to seek spot-market LNG cargoes for import into the U.S. and therefore U.S. consumers would have less natural gas supply to call on in times of need which, in turn, would produce higher gas prices for consumers in U.S. markets.

## V. PUBLIC INTEREST STANDARD

Pursuant to Section 3 of the NGA, FE is required to authorize exports to a foreign country unless there is a finding that such exports “will not be consistent with the public interest.”<sup>8</sup> Section 3 thus creates a statutory presumption in favor of approval of this export application which opponents bear the burden of overcoming.<sup>9</sup> Further, in evaluating an export application, FE applies the principles described in DOE Delegation Order No. 0204-111, which

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<sup>8</sup> 15 U.S.C. 717b.

<sup>9</sup> In *Panhandle Producers and Royalty Owners Association v. ERA*, 822 F.2d 1105, 1111 (D.C. Cir. 1987), the court found that Section 3 of the NGA “requires an affirmative showing of inconsistency with the public interest to deny an application” and that a “presumption favoring ... authorization ... is completely consistent with, if not mandated by, the statutory directive.” See also *Independent Petroleum Association v. ERA*, 870 F.2d 168, 172 (5<sup>th</sup> Cir. 1989); *Panhandle and Royalty Owners Association v. ERA*, 847 F.2d 1168, 1176 (5<sup>th</sup> Cir. 1988).

focuses primarily on domestic need for the gas to be exported.<sup>10</sup> FE also applies the Secretary's natural gas policy guidelines, which are designed to minimize federal control and involvement in energy markets and to promote a balanced and mixed energy resource system.<sup>11</sup> As detailed below, CMI's proposal to export LNG to various countries is consistent with Section 3 of the NGA and FE's policy.

A. There is No Domestic Reliance on the Imported LNG That CMI Seeks to Export

For the near term, at least, it appears that domestic natural gas supplies will continue to keep pace with U.S. demand. Traditional production has been augmented by unconventional sources of natural gas production including the new shale formation discoveries here in the U.S., such as the Barnett Shale in Texas, the Fayetteville and Woodford Shales in Arkansas and Oklahoma and the Haynesville Shale in Louisiana. In the absence of such discoveries, natural gas prices in the U.S. likely would have increased to the level of world LNG prices in order to attract foreign-sourced supplies. However, during this period of tight global LNG supply, which is expected to moderate with the completion of LNG liquefaction projects that are currently under construction, natural gas prices in the U.S. have remained relatively low compared to both oil prices and world market natural gas prices.<sup>12</sup>

Significantly, there is presently no domestic reliance on the volumes of imported LNG that CMI would seek to export. Moreover, the volumes of imported LNG that CMI would export under the blanket authorization requested herein would be in excess of volumes required to meet demand in U.S. markets during the period covered by the authorization. CMI would seek only to export LNG under the blanket authorization it requests herein if and when market conditions

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<sup>10</sup> See ConocoPhillips Alaska Natural Gas Corporation and Marathon Oil Company, DOE Opinion and Order No. 2500, June 3, 2008.

<sup>11</sup> See *Id.*; and 49 Fed. Reg. 6684, February 22, 1984.

<sup>12</sup> See Energy Information Administration, Short-Term Energy Outlook (August 12, 2008).

support the export. Grant of the requested short-term blanket authorization actually would serve to increase LNG supplies available to U.S. markets because it would encourage CMI to obtain LNG spot-market cargoes for import to U.S. markets. In the event that market conditions warranted it, the LNG would be available for delivery to U.S. markets. As there is no domestic reliance on the LNG that CMI seeks authorization to export, the requested export authorization is consistent with the public interest.

B. U.S. Gas Supplies Will Not Be Reduced

The public interest also requires approval of CMI's application since the proposed exports will not result in a reduction of U.S. gas supplies. To the contrary, CMI's request will result in additional supplies of gas available to U.S. markets during circumstances of need and consequently will help to moderate natural gas price volatility.

CMI's request is limited both in scope and in duration. First, CMI is not seeking authorization to export domestically produced LNG or natural gas. Rather, the authorization CMI seeks would permit it to export LNG which has been imported entirely from foreign sources. On a short-term basis should there be no domestic need for LNG which has been imported, CMI is requesting authorization to periodically export such LNG, should market demand in other parts of the world so warrant.

C. Export Authorization Will Ensure Continuing Operation of Needed Infrastructure

As indicated above, the Sabine Pass Project is nearing commercial operation. A continuous supply of LNG will help ensure that the facility remains in operation even when U.S. market conditions may not otherwise support the sale of imported LNG. To the extent imported LNG is not required to meet U.S. demand, granting CMI's instant request will permit the export of such LNG to meet worldwide demand, while also ensuring the availability of adequate

resources needed to maintain operation of the Sabine Pass Project.<sup>13</sup> Consequently, the export authorization requested is consistent with the public interest.

## VI. ENVIRONMENTAL IMPACT

No new facilities would be required for the proposed exportation of LNG. Very minor modifications to the existing Sabine Pass Project would be required for the export of LNG as proposed by CMI herein. There would be no environmental impacts associated with these minor modifications. Consequently, granting this application will not be a federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act, 42 U.S.C. §4231, *et seq.* Therefore, an environmental impact statement or environmental assessment is not required in conjunction with this application by CMI. Sabine Pass LNG will seek any additional authorization that may be required from FERC in order to utilize the Sabine Pass Project for the exportation of LNG.

## VII. APPENDICES

The following appendices are attached hereto and incorporated by reference herein:

Appendix A: Verification.

Appendix B: Opinion of Counsel.

Appendix C: *Sabine Pass LNG, L.P., Order Granting Authority Under Section 3 of the Natural Gas Act and Issuing Certificates*, 109 FERC ¶ 61,324 (2004) (Phase I); and *Sabine Pass LNG, L.P., Order Granting Authority Under Section 3 of the Natural Gas Act*, 115 FERC ¶ 61,330 (2006) (Phase II).

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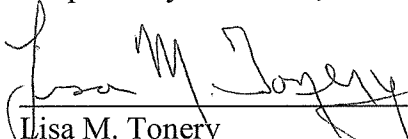
<sup>13</sup> The practice of exporting LNG from receiving terminals, as proposed herein by CMI, is not new. The use of receiving terminals for export of LNG to date has been episodic and designed to meet short-term commercial needs. In the Far East Japanese terminals have been used to supply cargoes to Korea. Additionally, Spain has dispatched cargoes to France, Italy, Korea, and the U.S. in recent years. Most recently, the operator of the Zeebrugge terminal in Belgium, Fluxys LNG, began to offer LNG loading services in response to demand from terminal users.



VIII.  
CONCLUSION

For the foregoing reasons, CMI respectfully requests that FE determine that its request for blanket authorization to export up to 64 Bcf of foreign-sourced LNG from the U.S. to the United Kingdom, France, Portugal, Spain, Belgium, Turkey, Italy, Brazil, Argentina, Mexico, Japan, Korea, Taiwan, China, India, Dominican Republic, and Chile, as further discussed herein, on a short-term spot market basis is not inconsistent with the public interest and grant such authorization as expeditiously as possible.

Respectfully submitted,

  
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